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**Building The
Wireless Future™**

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Michael F. Altschul
Vice President,
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August 29, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: Ex Parte Filing
(Docket # 96-45 - Universal Service)

Dear Mr. Caton:

On August 29, 1997, at the invitation of the Wireless Bureau, the Cellular Telecommunications Industry Association ("CTIA"), represented by Mike Altschul (CTIA), Wendy Chow (CTIA), and Brian Fontes (CTIA), along with Debra Wayne (RCR), Bill Todd (PrimeCo Personal Communications), Daniel Ezy (Belo Management), John Prendergast (BMJP), Richard Rabino (BMJP), Ben Almond (Bell South), Lisa Volpe (AT&T Wireless), Laura Gorman (Brown & Schwaninger), Carol Bjelland (GTE), Loretta Garcia (Dow Lohnes), Peter Connolly (Koteen & Naftalin), George Wheelen (Koteen & Naftalin), Tamer Haverty (Swidler & Berlin), Rick Joyce (Joyce & Jacobs), Jill Lyon (AMTA), Christine Crowe (PHJW), Kevin Korowicki (Geotek Communications Inc.), Kurt DeSoto (Wiley, Rein & Feilding), Alan Tilles (MFW&R), Angela Giancarlo (PCIA), Mary Lou Davis (PCIA), Sean Stokes (UTC), Gina Harrison (SBC), Wade Lindsay (Wilkinson, Barker), Carolyn Groves (Wilkinson, Barker), Monica Leimone (Paul, Weiss-Page Mart), Judy Wilson (LAO/D-Com), and Mary Heller (LAO), and a number of persons on a conference bridge established by PCIA; met with Tejal Mehta (Wireless Telecommunications Bureau), Diane Law (Common Carrier Bureau), Jim Lande Common Carrier Bureau, Martha Contee (Public Service Division), and Sharon Jenkins (Office of Public Affairs) to discuss the Universal Service Worksheet.

Based on the attached letter from CTIA, the FCC held a question and answer session for CMRS carriers with questions on how to complete FCC Form 457.

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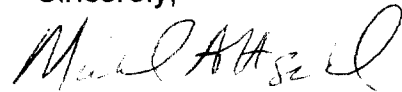
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Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter and attachments are being filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Altschul", written in a cursive style.

Michael Altschul

Attachment



Building The
Wireless Future

August 21, 1997

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Ms. Jeanine Poltronieri
Associate Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, NW, Room 5002
Washington, DC 20554

**Re: Wireless Issues Raised by the Universal
Service Worksheet**

Randall S. Cline
Vice President
Regulatory Policy

**Changes to the Board of Directors of the
National Exchange Carrier Association
(CC Docket No. 97-21) and**

**Federal-State Joint Board on
Universal Service (CC Docket No. 96-45)**

Dear Jeanine:

The Cellular Telecommunications Industry Association (CTIA), on behalf of its member companies, seeks clarification of the proper procedures for Commercial Mobile Radio Services (CMRS) providers completing the Commission's Universal Service Worksheet, FCC Form 457. Given the extremely limited amount of time before the worksheet is due, in lieu of requesting a delay of the filing date, CTIA respectfully requests that the Commission promptly respond to this request. CTIA also requests that the Commission specifically afford to CMRS providers the opportunity to adjust their worksheets following the Commission's response, given the Commission's recent statement that failure to comply with the worksheet requirements could result in penalties to the offending entity.¹ Absent clarification of the worksheet requirements, CTIA believes that there is a substantial likelihood CMRS providers will not report their revenues to the Commission consistently and that, despite good faith efforts to comply with the worksheet requirements, that CMRS providers could substantially over-report or under-report their revenues in certain categories identified in the worksheet.²

^{1/} See Public Notice, "FCC Announces Non-substantive Changes to Universal Service Worksheet Instructions Released on August 4, 1997," DA No. 97-1671A (rel. Aug. 11, 1997).

^{2/} CTIA appreciates that the Common Carrier Bureau, in an August 15 Order, clarified that all reporting entities are able to rely on good faith estimates if they do not possess actual data on interstate/intrastate



As the Commission is aware, the structure and organization of CMRS providers differ greatly from that of traditional incumbent local exchange carriers or long distance companies. CMRS licenses are issued for specific market areas that, in many cases, cross state boundaries. Equally important, CMRS providers often consolidate their operations in several license areas based on market demands. As a result, multiple licensee entities often are operated as a single unit, with a single set of books and a single subscriber base. In some cases, CMRS providers have ownership structures that include minority owners, which also affect the accounting for their systems. CMRS providers also operate without regard for state boundaries, a fact recognized by the Commission in its *Local Competition Order*. In many cases, it is not possible for a CMRS provider to know if a call is interstate or intrastate in nature because radio waves, unlike telephone lines, cannot be stopped at the state line.

These characteristics of CMRS have led many of CTIA's member companies to raise questions regarding the proper responses to the Universal Service Worksheet. In an effort to limit the burden on the Commission's resources, CTIA has compiled these questions to provide them to the Commission on a consolidated basis. Since this compilation is based on questions CTIA has received to date, there may be other questions that are not addressed in this letter.

CTIA's questions are as follows:

- 1. If a CMRS provider has consolidated the operations and financial records of multiple licensee entities, may it report the revenues for those entities on a consolidated basis?**

As noted above, many CMRS providers have consolidated the operations of several licensee entities for operational and accounting purposes. Unlike incumbent LECs, which historically have been required to maintain separate books for separate legal entities, CMRS providers have not previously been required to do so. In fact, it may be impossible to make this calculation on an individual licensee basis in some instances or may require a provider to change its accounting system solely to complete Form 457. Moreover, if CMRS providers are permitted to report their revenues on a consolidated basis, there will be no effect on the Commission's ability to calculate and assess universal service contributions because the total amounts of revenue reported to the Commission will remain the same. The Commission has permitted consolidated reporting in other contexts, including TRS funding and equal

revenues. While this statement is reassuring, even with it, CTIA's members still have critical, unique issues that must be addressed and resolved prior to completing the worksheet.

employment opportunity reports. Consolidated reporting could be accomplished by permitting CMRS providers to list all consolidated entities on a single form or separate attached sheet (that lists all included call signs and market areas) and that permits all revenues to be reported on one worksheet.

Based on initial conversations with the Common Carrier Bureau and Wireless Telecommunications Bureau staff, it appears that the Commission appreciates these concerns and may allow CMRS providers to file on a consolidated basis. Public confirmation of this determination is needed immediately, however, to forestall an enormous amount of unproductive labor and permit CMRS providers to move beyond this critical threshold issue to those covered in the remainder of this letter.

2. **If CMRS providers are not permitted to consolidate the operations and financial records of multiple licensee entities that are operated on a consolidated basis, how should the revenues of those operations be apportioned among the licensee entities?**

In the event that the Commission does not permit CMRS licensees to file on a consolidated basis, there are several alternatives for apportionment of revenues among licensee entities that are operated on a consolidated basis and it is not apparent from the instructions how such apportionment should be accomplished. In addition, regardless of the apportionment mechanism adopted by the Commission, it will be difficult for many carriers to derive the necessary information from their records, especially by September 1. For instance, many customers may be billed at addresses that are different from the areas where they use their service, so that use of billing address information may not be sufficient if the Commission were to determine that revenues should be apportioned based on the number of customers assigned to each licensee.³ Apportionment also could be based on minutes of use in each license area, but it is unlikely that many CMRS providers maintain such records. In any event, if apportionment of consolidated results is essential for the Commission, such apportionment will require considerable efforts for CMRS providers, and it will require additional time to prepare worksheets on a non-consolidated basis.

^{3/} Such an apportionment also will not address relative levels of roaming traffic among systems that are operated on a consolidated basis.

3. What methods for allocating revenues among interstate and intrastate jurisdictions will be deemed reasonable by the Commission?

As the Commission is aware, members of the CMRS industry have pending petitions for reconsideration seeking to have the Commission treat all CMRS as jurisdictionally interstate.⁴ To the extent that the Commission does not grant those petitions, it will be difficult in many cases to classify individual services and calls as interstate or intrastate in nature. In addition, carriers possess widely differing capabilities of assessing the jurisdiction of their traffic. Most would need to take traffic samples to estimate jurisdiction. CTIA member companies have sought guidance as to the treatment of several types of calls and services that could fall within the interstate classification. Those calls and services are as follows:

- Service provided in markets that cover multiple states, such as the New York MSA and adjacent RSAs, the Los Angeles MTA or the Huntington/Ashland, West Virginia/Kentucky/Ohio MSA. CMRS providers serving these markets often do not track the originating and terminating points of the calls, so they cannot tell whether the call is interstate or intrastate. Unlike LEC service, in which the originating and terminating telephone numbers can be used to determine whether a call crosses state boundaries, a wireless telephone number does not provide the location from which the call originated.
- Service provided from cell sites that cover areas in two or more states. In general, it is impossible to determine the state from which a call originated if the coverage area of the cell includes parts of two or more states. These capabilities are unlikely to evolve in the near future even as enhanced capabilities are added to wireless systems for E-9-1-1.
- Service provided on calls that begin while the customer is in one state and that end while the customer is in another state. CTIA is unaware of any Commission determination as to the jurisdictional nature of such calls.

4. How should roaming traffic be treated?

Roaming traffic occurs when a customer is outside his or her home system, and often when the customer is in a different state from the home system. Some CTIA members have concluded that, because roaming requires interaction between the

^{4/} In addition, at least one CMRS service, air-to-ground, previously has been classified as interstate by the Commission. See Allocation of the 849-851/894-896 MHz Bands, 5 FCC Rcd 3861, 3865 (1990).

customer's home system and the system in which the roaming occurs. It should be treated as interstate in nature. In addition, many CMRS providers have implemented "follow me" types of roaming. These roaming services involve forwarding calls from the customer's home system to the system where the customer is located. CTIA members have asked whether these services should be treated differently from traditional roaming service and some have concluded that it should be treated as interstate service.

Additionally, CTIA members have raised questions regarding the proper attribution of end user roaming revenues to the home system or to the provider that ultimately handles the call. When a CMRS provider bills an end user for roaming usage that occurred outside the customer's home system, for example, all or part of the corresponding end user payments that are collected are ultimately passed to the CMRS carrier that provided the roaming service and are not "revenues" to the collecting carrier. The roaming carrier receives the revenue collected from the end-user from the home carrier, and not directly from the end user. Indeed, because different wireless carriers may use different accounting treatment of roaming revenues, Commission clarification of this issue is needed to prevent roaming revenues from either being unreported or double counted, depending upon whether the home carrier considers them end user revenue and whether the roaming carrier reports them as end user revenues.

There is no uniform approach to addressing this concern. Some CTIA members have suggested that the CMRS carrier who provides the roaming service to the roaming end user customer, and ultimately books the revenue for this service, should report the corresponding revenues on Line 40 on Form 457, even though the carrier does not bill the end user directly. If this approach is adopted then the CMRS provider who bills and collects payment from the end user for the roaming service, and then passes this payment to the CMRS carrier who provided the roaming service, should not report these amounts on Line 40 (but should report any amounts it may collect from end users in excess of the amounts passed on to the roaming carrier).⁵

^{5/} Another approach suggested by a CTIA member would be to report on Line 40 "in-collect" revenues (those billed to the home carrier's customer when he/she is roaming on other markets) as meeting the end user definition. In contrast "out-collect" revenues (those collected from other carriers for calls placed by foreign roamers in the reporting carrier's market) should be reported on Line 28. Additionally, roamer revenues received from other carriers for long distance default treatment (a roamer making a long distance call is defaulted to the wireless carrier's chosen IXC) would fall into the Line 28 reporting category.

5. How should CMRS providers address resale issues?

The Commission's resale policies require CMRS providers to make their services available for resale, but do not require resellers to identify themselves or their end user revenues. In fact, because resellers are entitled to obtain service on the same terms and conditions available to other like customers, in some cases resale customers use the same customer agreements that are used by other large CMRS customers. Many resellers also are not aware of their regulatory obligations and do not comply with the Commission's TRS fund filing requirements, which makes it more difficult for a facilities-based CMRS provider to identify its resale customers reliably. Thus, CMRS providers may have difficulty identifying their resale customers and excluding all resale revenues from the revenues used to calculate contribution obligations. For these reasons, CTIA seeks guidance as to how CMRS providers can identify resale customers in compliance with the Commission's requirements.⁶ Because of the difficulty of being certain that a specific customer is a reseller, it appears that CMRS providers should be permitted to make good faith judgments regarding which customers are resellers for the purpose of completing the worksheet.

In addition, the instructions for the worksheet indicate that entities completing the worksheet can exclude resale revenues from their calculations only as to entities that "can reasonably be expected to contribute to support universal service." Is this statement intended to suggest that the facilities-based provider must undertake an inquiry into the financial qualifications and/or the actual intentions of the reseller to meet the universal service support obligation? CTIA seeks to confirm that a facilities-based provider may exclude revenues from the support calculation if it reasonably concludes that the entity purchasing its services is a reseller that is subject to the support obligation.

6. How should bundled offerings be treated?

CMRS providers often bundle telecommunications services, enhanced services, customer premises equipment and other non-telecommunications services available to their customers. Some CTIA members have sought guidance as to how to report the revenues from such bundles.

In light of the wide variety of bundled offerings that are typically available from a CMRS carrier, there are many possible permutations for backing out the non-

^{6/} One way of doing this is for the Commission to articulate a limited exception to its existing resale policy that permits CMRS carriers to inquire to confirm reseller status for universal service purposes.

telecommunications features of a bundle. While CTIA recognizes that it is impractical for the FCC to provide rules that apply in every instance, permitting CMRS providers to adopt certain simplifying assumptions will be critical. Failure to adopt simplifying assumptions creates an enormous amount of unnecessary additional work for each carrier that must examine the specific features of each bundled rate plan and determine in each case the appropriate distribution for the phone, the features and the telecommunications services. One simplifying assumption would be to allow CMRS carriers to back out non-telecommunications features and equipment uniformly based on their stand-alone fair market value.

7. Hows should CMRS carriers account for fraud-related uncollectibles?

As the Commission is aware, CMRS carriers experience fraud-related uncollectible debt because of the nature of CMRS calling and the availability of cloning devices. In many cases the CMRS carrier becomes aware of alleged fraudulent calling when its customer receives a bill and questions apparently unauthorized calls. Typically the amount in question is held while the carrier, often together with a roaming partner, investigates the matter. To cover this financial contingency, most CMRS carriers place a fraud reserve on their books. This reserve is updated approximately every six months to reflect current experience with fraud uncollectibles. While the Worksheet requires that uncollectibles be factored into revenue amounts, it is not at all obvious that CMRS fraud-related uncollectibles represented in the fraud reserve should be included in a more general uncollectible category. To do so would ignore the unique fraud uncollectible issues associated with CMRS carriers and cause anomalously high uncollectibles for CMRS carriers.⁷

8. How should CMRS carriers account for universal service fees?

To the extent a CMRS carrier determines that it must pass onto end users universal service expenses in the form of additional fees, several member companies request clarification of how these fees are properly accounted for -- as telecommunications revenues or as non-telecommunications revenues? It would appear that universal

^{7/} Fraud is a multi-million dollar problem for the wireless industry each year. It is unreasonable to penalize CMRS providers by mandating that a universal service fee be paid on total gross end user revenues when a significant portion of that revenue is never collected by the CMRS providers. CTIA members suggest that Instructions for Lines 28, 39 and 49 on FCC Form 457 be revised to permit allowances for uncollectibles, including fraud. CTIA suggests that such allowance should be based on current period booked uncollectibles, even though those amounts correspond to a different reporting period. There may be a timing difference, but this is preferable to further complicating the reporting process with additional steps to estimate and then true-up the amount for uncollectibles.

service pass-throughs are not charges for a telecommunications service, and therefore not properly classified as a telecommunications service. CTIA, however, requests confirmation of this assumption.

9. **Will reporting entities be subject to penalties for reporting data that are calculated in good faith but are inconsistent with later-adopted Commission determinations regarding reporting requirements?**

The Commission's August 11 public notice emphasized that reporting entities that do not provide accurate responses on the worksheet will be subject to penalties, including criminal sanctions in some cases. As the discussion above demonstrates, there is substantial uncertainty among CMRS providers about how to complete large parts of the worksheet and, absent specific Commission guidance, CTIA members and other CMRS providers will be forced to make good faith judgments regarding these issues. CTIA seeks clarification of what steps CMRS providers (and others) can take to ensure that they are not subject to penalties for reporting "incorrect" data if the Commission later determines that such good faith judgments are not consistent with the Commission's expectations of how the worksheet should be completed. CTIA appreciates that the Common Carrier Bureau on August 15 released an order clarifying that good faith estimates will be sufficient for those carriers unable to determine interstate and intrastate jurisdictional splits. CTIA seeks to confirm what the order appears to state, that is that all worksheet data furnished in good faith will not subject the service provider to non-compliance penalties.

The Commission's responses to these questions will have a substantial impact on how CMRS providers will complete the worksheet. Indeed, many CTIA members have indicated that they may be unable to complete the worksheet absent the clarifications requested in this letter. Even if CMRS providers can complete the worksheets without answers to these questions, it is likely that their responses will be inconsistent with each other and may not comport with the Commission's expectations regarding total reportable revenues and the allocation of revenues to the interstate jurisdiction. These concerns are particularly acute because, unlike incumbent LECs, CMRS providers generally have not been subject to accounting requirements such as the Uniform System of Accounts and have not been required to provide data to any regulator in forms that are similar to what is required by the worksheet. Thus, it is critical to CTIA's members and other CMRS providers that the Commission address these issues promptly.

Regardless of when the Commission responds to this request, CMRS providers also should be afforded additional time to prepare and submit amended worksheets. The

Ms. Jeanine Poltronieri
August 21, 1997
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Commission's responses to the questions outlined above are likely to require new calculations and additional analysis before CMRS providers are able to complete and submit their worksheets. Given the complexity of most providers' accounting systems, extracting the necessary information also is likely to be a time-consuming process. Without additional time, it will be impossible for CMRS providers to compile accurate information necessary to that task. Indeed, unlike incumbent LECs, CMRS providers are likely to need the time to create the information required for the worksheet from scratch, rather than simply filling in figures from existing accounting records. This process will be especially difficult and time consuming in this case because CMRS providers never before have been required to provide information at this level of detail. Accordingly, the Commission should permit carriers to amend or modify their Form 457's to insure accurate responses.

Please inform me if any questions should arise in connection with this letter.

Respectfully submitted,



Randall S. Coleman

cc: Chairman Reed Hundt
Commissioner James Quello
Commissioner Rachelle Chong
Commissioner Susan Ness
Regina Keeney
Daniel Phythyon
Richard Metzger
Thomas Boasberg
Paul Gallant
Kathleen Franco
James Casserly
Lisa Gelb
Karen Gulick
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